

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 16 1997

Federal Communications Commission
Office of Secretary

In the Matter of

Rulemaking to Amend Parts 1, 2,)
21, and 25 of the Commission's)
Rules to Redesignate the 27.5-)
29/5 GHz Frequency Band, to)
Reallocate the 29.5-30.0 GHz)
Frequency Band, to Establish)
Rules and Policies for Local)
Multipoint Distribution)
Service and for Fixed)
Satellite Services)
)
Petitions for Reconsideration)
of the Denial of Applications)
for Waiver of the Commission's)
Common Carrier Point-to-Point)
Microwave Radio Service Rules)
)
Suite 12 Group Petition for)
Pioneer's Preference)

CC Docket No. 92-297

PP-22

To: The Commission

REPLY OF THE INDEPENDENT ALLIANCE

Pursuant to Section 1.429 of the Commission's Rules,¹ the Independent Alliance ("Alliance") respectfully submits this Reply within the pleading cycle established for the Alliance's Petition for Reconsideration in the above-captioned docket.² Notice of the Petition of the Alliance was published on May 15, 1997.³

¹/ 47 C.F.R. § 1.429.

²/ Petition for Reconsideration of the Independent Alliance (filed May 7, 1997) (hereinafter "Petition").

³/ Public Notice: Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings, Report No. 2196 (May 15, 1997).

Oppositions to the Petition were due June 4, 1997.⁴ No party has opposed the Petition of the Alliance. Accordingly, the Commission should amend expeditiously the LMDS rules in accordance with the principles established in the Petition, which are consistent with the Commission's Congressional mandate. The absence of disagreement with the arguments and conclusions set forth in the Petition underscores the validity of the reconsideration urged by the Alliance.

The Alliance, in its Petition, set forth several reasons why the Commission's final LMDS rules, which do not provide any mechanism that promotes the provision of LMDS by rural telephone companies or in rural areas, must be reconsidered, including fulfillment of the Congressional mandate to promote opportunities for rural telcos to participate in the provision of LMDS,⁵ and the Commission's impermissible imposition of an obligation that the telcos must prove a need before any statutorily-mandated opportunities will be established.⁶ No Opposition to the Petition of the Alliance has been submitted to the Commission. Indeed, the only other pleading that addresses the new LMDS rules and the Commission's obligation to provide opportunities for rural telcos

⁴/ In accordance with Commission rules, oppositions to Petitions for Reconsideration are due no later than 15 days after publication of public notice of the Petitions in the Federal Register. See 47 C.F.R. § 1.4(b)(1). Publication of the Petition of the Alliance was published in the Federal Register on May 20, 1997 (62 Fed. Reg. 27603-27604 (1997)); accordingly, oppositions were due June 4, 1997.

⁵/ See 47 U.S.C. § 309(j). See also Petition at 3, 4.

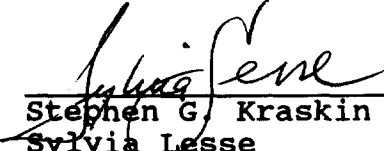
⁶/ Petition at 4, 5.

presents arguments that are substantially similar to those enunciated by the Alliance in its earlier-filed Petition.⁷ Therefore, the Alliance respectfully requests the Commission to reconsider its decision and amend the LMDS auction and service rules in a manner that provides opportunities for rural telcos and which is consistent with the Commission's Congressional mandate.

Respectfully submitted,

The Independent Alliance

By:


Stephen G. Kraskin
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Its Attorneys

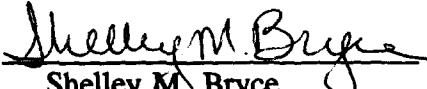
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June 16, 1997

⁷/ See generally Petition for Reconsideration of the Rural Telecommunications Group (filed May 29, 1997). LBC Communications, Inc. ("LBC") and WebCel Communications, Inc. ("WebCel"), in individual Petitions for Reconsideration filed with the Commission on May 29, 1997, oppose generally the provision of LMDS by incumbent LECs and cable companies, even where the Commission's current "significant overlap" standards have been met. The positions advocated by LBC and WebCel have been addressed by the Commission, which investigated and determined that, with certain exceptions, provision of LMDS services by incumbent telcos and cable operators will not conflict with competitive interests. By contrast, the Petition of the Alliance addresses specifically the Commission's failure to meet its Congressional mandate to provide opportunities for rural telcos. No party on record has opposed the Petition of the Alliance.

CERTIFICATE OF SERVICE

I, Shelley M. Bryce, of *Kraskin & Lesse, LLP*, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Response of the *Independent Alliance*" was served on this 16th day of June, 1997, by first class, U.S. mail, postage prepaid to the following parties:


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